

**REMARKS**

In the Office Action<sup>1</sup>, the Examiner rejected claims 1, 4, 5, and 8-14 under 35 U.S.C § 103(a) as being unpatentable over U.S. Patent No. 7,036,091 to Nguyen ("Nguyen") in view of U.S. Patent No. 6,628,304 to Mitchell et al. ("Mitchell"), further in view of U.S. Patent No 6,819,344 to Robbins ("Robbins"), further in view of U.S. Patent No. 5,317,687 to Torres ("Torres"), further in view of U.S. Patent No. 5,745,717 to Vayda et al. ("Vayda"), and further in view of U.S. Patent No. 6,781,610 to Os et al. ("Os").

By this amendment, Applicants amend claims 1 and 5. Upon entry of this amendment, claims 1, 4, 5, and 8-14 remain pending.

Applicants respectfully traverse the rejection of claims 1, 4, 5, and 8-14 under 35 U.S.C § 103(a) as being unpatentable over *Nguyen* in view of *Mitchell, Robbins, Torres, Vayda, and Os*. The Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. See M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398 (2007). In particular, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Office Action has not interpreted the prior art and considered *both* the invention *and* the prior art *as a whole*. See M.P.E.P. § 2141(II)(B).

---

<sup>1</sup> The Office Action contains a number of statements reflecting characterizations of the related art and the claims. Regardless of whether any such statement is identified herein, Applicants decline to automatically subscribe to any statement or characterization in the Office Action.

Although Applicants respectfully disagree with the rejection of claims 1, 4, 5, and 8-14, to advance prosecution, Applicants have amended independent claims 1 and 5 to even further distinguish the claims from the cited references. For example, amended claim 1 recites “automatically reducing a size of the remaining primary icons, the reduction in size of any one remaining primary icon determined in accordance with a number of predetermined intervals on the first ring between the any one remaining primary icon and the highlighted second icon.” Support for this element is found in Applicants’ specification at, for example, paragraphs [0046]. None of the cited references, nor any combination thereof, teaches or suggests at least this element.

*Nguyen*, for instance, merely teaches icons rotated on concentrically disposed menus and is silent to the size of the icons. See *Nguyen*, abstract. *Mitchell*, meanwhile, only suggests the equal scaling and sizing of nodes belonging to the same hierarchical level. *Mitchell*, col. 8, lines 19-34. *Robbins* teaches only “zoom[ing] in to exam details...associated with a selected part of the image.” *Robbins*, col. 6, lines 15-19. Further, *Torres* merely teaches highlighting an icon if selected and unhighlighting the icon if deselected and is silent to the size of the icons. *Torres*, col. 4, lines 29-40. Similarly, *Vayada* merely teaches positioning a highlighted menu item in the focus or default position and is silent to the size of the unhighlighted menu items. *Vayada*, col. 13, lines 12-23. Finally, *Os* merely teaches reducing the size of unselected areas. *Os*, col. 3, lines 4-17.

Accordingly, none of the cited references, nor any combination thereof, teaches or suggests at least “automatically reducing a size of the remaining primary icons, the reduction in size of any one remaining primary icon determined in accordance with a

number of predetermined intervals on the first ring between the any one remaining primary icon and the highlighted second icon," as recited by amended claim 1.

For at least the above reasons, the Office Action has neither properly determined the scope and content of the prior art nor properly ascertained the differences between the prior art and amended independent claim 1. Moreover, no reason has been clearly articulated as to why amended claim 1 would have been obvious to one of ordinary skill in the art in view of the prior art. Independent claim 5, although of a different scope, includes elements similar to those discussed above in connection with claim 1 and, accordingly, is not obvious for similar reasons. Further, claims 4 and 8-14 should also be allowable at least due to their respective dependence from base claim 1 or 5, and because they recite additional elements not taught or suggested by the cited references. Applicant therefore respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejection.

In view of the foregoing, Applicants submit that the claimed invention is not rendered obvious in view of the prior art references cited against this application. Applicants therefore request the Examiner's reconsideration of the application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge  
any additional required fees to Deposit Account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,  
GARRETT & DUNNER, L.L.P.

Dated: March 22, 2010

By: Michael V. Young, Sr.  
Michael V. Young, Sr.  
Reg. No. 61,180  
(571) 203-2788